



April 4, 2001

Mr. Don Hatcher
Chief of Police
City of Leander
P.O. Box 319
Leander, Texas 78646-0319

OR2001-1347

Dear Mr. Hatcher:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 145647.

The City of Leander Police Department (the "department") received a request for a police report and 9-1-1 tape relating to an incident at a certain address and all other incidents occurring at that same address. You assert that the submitted information is excepted from disclosure under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. You also claim that the requested information is excepted from public disclosure under section 552.108 of the government Code and section 261.201 of the Family Code. We have considered your arguments and the submitted information.

Section 552.101 encompasses confidentiality provisions such as Family Code section 58.007. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. The relevant language of section 58.007(c) reads as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult files and records;

(2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

The information in report numbers 19293, 19556, 19600, 19692, and 20126 involves juvenile conduct that occurred after September 1, 1997. It does not appear that any of the exceptions in section 58.007 apply; therefore, the requested information is confidential pursuant to section 58.007(c) of the Family Code. You must withhold report numbers 19293, 19556, 19600, 19692, and 20126 from disclosure under section 552.101 of the Government Code. Next, we address your arguments under section 552.108 to withhold the 9-1-1 tape and report numbers 14173, 14203, and 20099.

Section 552.108(a) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime.” Generally, a governmental body claiming section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See Gov’t Code* §§ 552.108(a)(1), (b)(1), .301(e)(1)(a); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the release of the information would “hinder this pending investigation.” We assume you are referring to the investigation of case number 20099. Based upon this representation, we agree that the release of report number 20099 and the 9-1-1 tape would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Thus, you may withhold report number 20099 and the 9-1-1 tape under section 552.108(a)(1).

We note, however, that information normally found on the front page of an offense report is generally considered public. *See generally Gov’t Code* § 552.108(c); *Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Thus, you must release the types of information in report number 20099 that is considered to be front page offense report information, even if this information is not actually located on the front page of the offense report. Although section 552.108(a)(1) authorizes you to withhold the remaining information in report number 20099 from disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. *See Gov’t Code* § 552.007.

You have not explained the application of section 552.108 to report numbers 14173 and 14203. Gov't Code § 552.301. We further note that the reports submitted for our review do not reveal any police investigative methods. Therefore, you may not withhold report numbers 14173 and 14203 under section 552.108.

Lastly, you contend that section 261.201 of the Family Code makes the two reports confidential. Section 261.201 provides as follows:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

- (1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and
- (2) except as otherwise provided in this section, the files, reports, records, communications, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Because the two reports do not relate to an allegation of child abuse, you cannot withhold the documents under section 261.201. Thus, you must release report numbers 14173 and 14203.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records;

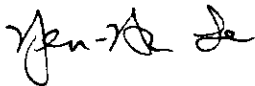
governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read 'Yen-Ha Le', with a stylized flourish at the end.

Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/dam/seg

Ref: ID# 145647

Encl. Submitted documents

cc: Ms. Sharlann M. Roe
808 West 11th Street
Austin, Texas 78701
(w/o enclosures)